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U.S. Department of Justice

Federal Bureau of Investigation

Office of the General Counsel

Washington, D C 20535

August 13, 2003

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By Hand Delivery

Tracey Wilson
Competition Policy Division
Wireline Competition Bureau
Federal Communications Commission
445 12th St, SW, Room 5-C437
Washington, D C 20554

RECEIVED - FCC

AUG 13 2003

Federal Communication Commission
Bureau / Office

Re: *Petition to Defer of U.S. Department of Justice and Federal Bureau of Investigation, WC Docket No. 03-151: regarding the Application of Touch America, Inc., Transferor, and 360Networks (USA), Inc., Transferee, For Acquisition of Certain Assets of Touch America, Inc. by 360Networks (USA), Inc.*

Dear Ms. Wilson

Transmitted herewith, on behalf of the Department of Justice ("DoJ") and the Federal Bureau of Investigation ("FBI"), is a copy of the Petition to Defer regarding the pending Application in the above-referenced matter

Sincerely,

Myla R. Saldivar-Trotter
Office of the General Counsel
935 Pennsylvania Ave, N W, Room 7877
Washington, D C 20535
(202) 324-1730

Enclosure

001 24 1

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In re)	
)	
Application of)	
)	
Touch America, Inc.)	
Transferor,)	
)	
and)	
)	WC Docket Number 03-151
360Networks (USA), Inc.)	
Transferee,)	
)	
For Acquisition of Certain Assets of Touch)	
America, Inc. by 360Networks (USA), Inc.)	

To: The Commission

**PETITION TO DEFER
OF U.S. DEPARTMENT OF JUSTICE AND
FEDERAL BUREAU OF INVESTIGATION**

The Department of Justice ("DOJ") and the Federal Bureau of Investigation ("FBI"), by their undersigned attorneys, respectfully request that the Federal Communications Commission ("Commission") defer action on the above-captioned application pending resolution of potential national security, law enforcement, and public safety issues.

The DOJ and the FBI have communicated with representatives of the Applicants that the DOJ and FBI are reviewing the application and have advised the representatives that the DOJ and FBI have concerns that the Declaratory Ruling sought under Section 310(b)(4) of the Communications Act of 1934, as amended, for 360networks to exceed the Commission's indirect foreign ownership limits in connection with its proposed acquisition of certain assets, including common carrier wireless licenses, currently held by Touch America, Inc (Debtor-in-Possession) if granted, may impair the ability of the DOJ and FBI to preserve the national security, enforce the laws, and protect the public safety

Wherefore, the DOJ and the FBI request that the Commission defer action on granting a Declaratory Ruling subject to the foregoing application until the DOJ and FBI notify the Commission.

Respectfully submitted,



Patrick W. Kelley
Deputy General Counsel
FEDERAL BUREAU OF INVESTIGATION
935 Pennsylvania Avenue, N.W.
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John G. Malcolm
Deputy Assistant Attorney General
Criminal Division
UNITED STATES DEPARTMENT OF JUSTICE
10th Street & Constitution Avenue, N.W.
Washington, D.C. 20530
(202) 616-3928

Dated: August 12, 2003

CERTIFICATE OF SERVICE

I, Myla R. Saldivar-Trotter, Federal Bureau of Investigation, hereby certify that on this 13th day of August, 2003, I caused a true and correct copy of the foregoing **Petition to Defer of the U.S. Department of Justice and the Federal Bureau of Investigation** to be served via hand delivery (indicated by *) or by mail to the following parties:

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Myla R. Saldivar-Trotter